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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,664	09/05/2003	William J. Legg	OKC00212	8296

7590

06/14/2005

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EXAMINER

NERBUN, PETER P

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,664

Applicant(s)

LEGG ET AL

Examiner

Peter P. Nerbun

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-21 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09052003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9 and 11-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kronenbeger (US 2004/0210982 A1). The Kronenbeger patent application publication discloses a headwear comprising a headwear comprising a crown 70, Fig. 1 adapted to substantially conform to a wearer's head, the crown comprising a substantially planar panel having opposing interior and exterior surfaces and an aperture 42, 44, Fig. 1 and 42', 44', Fig. 2 which extends through the panel from the interior surface to the exterior surface, the aperture operably configured to secure a longitudinally extending article so that, when the article is inserted through the aperture, a proximal end of the article is contactingly supported adjacent to the exterior surface of the panel and a medial portion of the article is supported so as to extend adjacent to and substantially parallel with the interior surface of the panel. With regard to claim 9 note that Kronenbeger discloses a head embracing portion 24, Fig. 1 around the entry to opening 16. This head embracing portion, which is a headband, is structurally adapted to contactingly support the medial portion and distal end of the tee article in a gap between the interior surface of the panel and the headband provided that the

apertures 42, 44 are oriented perpendicular to the orientation shown in Fig. 1. In this regard, note that Kronenbeger discloses, in paragraph [0054], that the invention contemplates that "other orientations of the openings 42, 44 could be used...virtually anywhere and in virtually any orientation, on the crown 12". One of these orientations is perpendicular to the orientation shown in Fig. 1. As noted above, in this orientation the headband 24 is structurally adapted to contactingly support the medial portion and distal end of the tee article in a gap between the interior surface of the panel and the headband.

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by D'Oca (U.S.P. 5,734,993). The patent to D'Oca discloses an apparatus comprising headwear comprising a crown 42, Fig. 10 comprising a substantially planar panel having opposing interior and exterior surfaces and an aperture 12, 13 which extends through the panel from the interior surface to the exterior surface; and a golf tee 22 having a proximal end with a golf ball support surface to contactingly support a golf ball, a medial portion and a tapered distal end. The crown is imprinted with a first human discernable symbol (the conical bottom of symbol 16), and wherein a second human discernable symbol (the symbol formed by the conical bottom on golf tee 22) corresponding to said first symbol is further disposed on the golf tee so that at least a

portion of said second symbol is visible to an observer while concurrently or consecutively viewing said first symbol.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter P. Nerbun whose telephone number is 571-272-4992. The examiner can normally be reached on M-F (1st Week) M-Th (2d Week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Nerbun
June 9, 2005


Peter Nerbun
Primary Examiner